

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

VICTOR ANDREW APODACA,
#2143720,

Plaintiff,

V.

UNKNOWN 1, et al.,

Defendants.

[illegible]

Case No. 6:23-cv-156-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Victor Andrew Apodaca, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Defendants Emmanuel Antwi, Toby Davis, Enuel Engoro, Sean Garren, Andrew Hudson, and John Legard's motion for summary judgment arguing that Plaintiff failed to exhaust his administrative remedies prior to filing suit as required by the Prison Litigation Reform Act. Docket No. 44. On February 26, 2024, Judge Love issued a Report recommending that the Court deny Defendants' summary judgment motion. Docket No. 55. No objections to the Report have been filed.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Defendants did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 55) as the findings of this Court and **DENIES** Defendants' motion for summary judgment on the issue of administrative exhaustion (Docket No. 44).

So **ORDERED** and **SIGNED** this **20th** day of **March, 2024**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE